

Statement of Richard Cimerman
Senior Director, State Telecommunications Policy
National Cable & Telecommunications Association

before the United States House of Representatives Congressional Rural Caucus

Telecommunications Task Force

on

Voice over Internet Protocol

March 9, 2005

Chairman Gutknecht and Members of the Task Force, my name is Richard Cimerman, and I am the Senior Director, State Telecommunications Policy of the National Cable and Telecommunications Association. Thank you for the opportunity to appear before you today to discuss issues surrounding the deployment of voice over Internet protocol -- or "VoIP" -- services and its impact.

Many of you are aware of the large-scale rollouts and announced rollouts of VoIP services by cable companies such as Time Warner, Cablevision and Comcast, phone companies such as Verizon and AT&T, and non-facilities-based providers such as Vonage. You may not be aware, however, that cable companies serving rural and smaller markets like Mediacom Communications in Florida, Georgia, Illinois, Iowa, Minnesota, and Missouri; Bresnan Communications in Colorado, Montana, Utah and Wyoming; and USA

Companies, serving communities like Laurel, Montana and Central City, Nebraska, plan to or have deployed full-featured VoIP services. This represents a significant investment, on top of the investment these companies have already made to bring advanced video and high-speed data services to rural America.

In order to address state and federal policymaker's concerns with the regulatory treatment of VoIP NCTA released a policy paper a year ago outlining the cable industry's views concerning the regulation of Voice over Internet Protocol (VoIP) Services. I have attached a copy of the paper, *Balancing Responsibilities and Rights: A Regulatory Model for Facilities-Based VoIP Competition*, to my testimony. This paper, which represents an industry-wide consensus, provides recommendations on how and why federal and state policymakers and regulators can affirmatively promote VoIP services by adopting a predominantly deregulatory approach.

And while much of the public policy discussion has centered on the appropriate regulatory classification of VoIP services, our approach was to focus on those responsibilities and rights we believe are necessary for facilities-based competitors, like cable, that are offering VoIP services.

In order to determine whether a particular IP-based voice service should be subject to our recommended regulatory framework, we propose a four-prong baseline test. The test is based on the following four factors: whether the

service makes use of North American Numbering Plan resources; receives calls from or terminates them to the public switched telephone network; represents a possible replacement for “plain old telephone service;” and uses Internet Protocol transmission between the service provider and the end user customer, including use of an IP terminal adapter and/or IP-based telephone set.

If a service meets these qualifications, we suggest that instead of assigning a specific regulatory “box” or classification to VoIP, policymakers focus instead on the responsibilities and rights appropriate for a facilities-based provider of such services. VoIP service providers must assume certain fundamental regulatory responsibilities including consumer protections of general applicability; assistance to law enforcement (including the principles outlined in the Communications Assistance for Law Enforcement Act); 911/E911 services and access for the disabled; contributions as appropriate to the Universal Service Fund (USF); and participation in intercarrier compensation. VoIP providers may undertake other responsibilities on a voluntary basis but they should not be imposed.

As to CALEA, we take our responsibility to work with the law enforcement community very seriously. In fact, in September of last year the FBI lauded the work of our industry, through the industry's non-profit research and development consortium, CableLabs, in putting forward the PacketCable Electronic Surveillance Specification. According to the FBI's press release, "The latest

issue of this technical specification represents a milestone in the cable industry's efforts to address law enforcement's concerns regarding VoIP (Voice over Internet Protocol) services made available by cable companies [marking] an extremely positive development which ultimately will empower federal, state and local law enforcement agencies with the technical capability to continue to protect the public by effectuating court-authorized electronic surveillance."

On USF, we recognize, as do many others both on and off Capitol Hill, that the current contribution mechanism is broken. It is based on interstate telecommunications revenues, a revenue base that is shrinking, even as demands on the fund are growing. And as it stands today, VoIP revenues may or may not be captured under the current system. We have proposed a solution to address these issues - a number-based contribution mechanism - that would easily capture VoIP services and move the USF away from its reliance on a shrinking revenue base.

In conjunction with accepting these fundamental responsibilities, it is crucial that VoIP providers are accorded certain rights so that they are able to offer this service. These rights include interconnection to the publicly-switched network, number portability, access to universal service support and intercarrier compensation, and access to rights-of-way and other facilities without incremental fees. We also point out that while some VoIP providers see little use

for state regulators going forward, our industry does recognize that states play an important role when overseeing interconnection.

To conclude, I would simply reiterate that while the regulatory classification under which this set of responsibilities and rights is established is important, it is ultimately less important than ensuring that these key responsibilities and rights are established in a minimally regulatory framework. We look forward to working with policymakers to achieve that framework.

I would also add, since I know this is critical to many of our rural and smaller market operators that have invested risk capital to deploy VoIP and other advanced services, that legislators hoping to spur continued private investment in these markets should take a second look at the RUS broadband loan program. Loan money from this program is being used to subsidize competitors in markets where there are already two or more broadband providers. This type of subsidized competition penalizes private entities serving those markets and we would recommend that the loan money allocated for this program be used instead to subsidize the deployment of broadband services in areas that today are unserved.

Again, I appreciate the opportunity to be here with you today and welcome any questions.